IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 8TH MARCH 2007 / 17TH PHALGUNA 1928

WP(C).No. 24485 of 2006(M)

PETITIONER:

KUNJUMOL RAJAN, MALATHUSSERIL HOUSE,
CHINGAVANAM P.O., KOTTAYAM.

BY ADV. SRI.K.G.CLEETUS.

RESPONDENTS:

1. **THE DISTRICT COLLECTOR, KOTTAYAM.**
2. **THE DEPUTY TAHSILDAR (RR),**
   TALUK OFFICE, KOTTAYAM.
3. **SRI.JAYAMON PONNOSE,**
   S/O.EALIKUTTY PONNOSE, MALATHUSSERIL,
   CHINGAVANAM (DIED).
4. **ALEYKUTTY PUNNOSE, MOTHER OF JAYAMON**
   PUNNOSE, MALATHUSSERIL, CHINGAVANAM,
   KOTTAYAM.
5. **JULIE JAIMON, MALATHUSSERIL,**
   WIFE OF JAYAMON PUNNOSE, MALATHUSSERIL,
   CHINGAVANAM, KOTTAYAM.
6. **ASHNA JAIMON, D/O.JAYAMON PUNNOSE,**
   MINOR, DO. DO.
7. **AMMU JAIMON, D/O.JAYAMON PUNNOSE,**
   MINOR, DO. DO.
8. **P.K.BABU, PUTHENKULAM HOUSE,**
   NEELAMPERUR P.O., KURUCHY, KOTTAYAM DISTRICT.

W.P.(C). NO. 24485/2006:

9. MAYA BABU, W/O.P.K.BABU,
PUTHENKULAM HOUSE, NEELAMPERUR P.O.,
KURUCHY, KOTTAYAM DISTRICT.

10. THE SALES TAX OFFICER,
THIRUVALLA.

BY SR. GOVT. PLEADER SRI. MOHAMMED RAFIQ.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/03/2007, ALONG WITH W.P.(C). NO. 20127/2005,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.24485/2006:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE NOTICE DTD. 15/03/05.

EXT.P.2: COPY OF THE REPLY DTD. 31/03/05.

EXT.P.3: COPY OF THE DEMAND DTD. 15/06/2005.

EXT.P.4: COPY OF THE DEMAND DTD. 23/06/05.

EXT.P.5: COPY OF THE STAY ORDER DTD. 07/07/05.

EXT.P.6: COPY OF THE RECEIPT FOR PAYMENT OF RS. 8 LAKHS.

EXT.P.7: COPY OF THE DECISION REPORTED IN (2002) 10 KTR 606.

//TRUE COPY//

prv.

K.BALAKRISHNAN NAIR,J.

WP(C)NOS.20127/05 & 24485/06

Judgment

Writ Petition(C) No.24485/06

The petitioner was a surety when the third respondent obtained sales tax registration. The said respondent died and therefore, his legal heirs are impleaded as respondents 4 to 9 in this Writ Petition. Since substantial amounts were due from the third respondent towards the State as sales tax dues, revenue recovery steps were taken against the said respondent and also the sureties. Ext.P3 is the demand notice issued to the petitioner. The petitioner submits, the surety bond is only for Rs.8 lakhs and the said amount has already been paid by her co-surety and therefore, there cannot be any further recovery from her. The learned Government Pleader upon instruction submitted that the above submission is correct. In view of the said position, the Writ Petition is allowed. It is ordered that no further recovery shall be made against the petitioner pursuant to Ext.P3 notice.

Writ Petition (C) No.20127/05

2. The Judgment in Writ Petition (C) No.24485/06 will govern this case also. Accordingly, this Writ Petition is also allowed. It is ordered that no further recovery shall be made against the petitioners pursuant to Ext.P3 notice.

08.03.2007 **K.BALAKRISHNAN NAIR,JUDGE**

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